

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

FRED MCMILLEN,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

Case No. 1:22-cv-00925-AWI-SAB

ORDER DISCHARGING ORDER TO SHOW
CAUSE AND GRANTING EXTENSION OF
TIME TO FILE RESPONSIVE BRIEF

(ECF Nos. 19, 20, 21)

On February 3, 2023, the Court granted the parties' stipulated motion to modify the scheduling order to extend Defendant's deadline to file a responsive brief to March 8, 2023. (ECF No. 17.) Defendant filed a responsive brief on March 9, 2023 (ECF No. 18), but did not first seek leave from the Court to file a late brief, nor did the parties submit a stipulated motion for an extension. Accordingly, on March 13, 2023, the Court issued an order to show cause why Plaintiff's social security appeal should not be deemed unopposed. (ECF No. 19.) Later that same day, Defendant filed a response to the order to show cause and a stipulated motion to extend Defendant's filing deadline to March 9, 2023. (ECF Nos. 20, 21.) Defense counsel proffers the brief would have been timely filed on March 8, but for some difficulty counsel experienced in completing and formatting the table of authorities in order to submit a brief in compliance with the Local Rules. (ECF No. 20.) Counsel further proffers a nunc pro tunc extension was not

1 sought after the brief was filed at 12:03 a.m., in part, because counsel sought to avoid additional
2 motion practice to the Court's docket. The stipulated motion to modify the schedule seeks to
3 extend Defendant's filing deadline to March 9, 2023, and indicates Plaintiff is unopposed to the
4 extension. (ECF No. 21.) Having reviewed the response, the Court shall discharge the order to
5 show cause and grant the parties' requested relief.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. The Court's March 13, 2023 order to show cause (ECF No. 19) is DISCHARGED;
- 8 2. The parties' nunc pro tunc motion for an extension to file Defendant's responsive
9 brief by March 9, 2023 (ECF No. 21), is GRANTED; and
- 10 3. Plaintiff's reply brief deadline is EXTENDED to **fifteen (15) days** from the
11 electronic entry of this order.

12 IT IS SO ORDERED.

13 Dated: **March 13, 2023**

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15 UNITED STATES MAGISTRATE JUDGE